

The Times.

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WE DESIRE TO CALL THE ATTENTION OF ALL PERSONS SENDING POLITICAL NEWS AND OTHER COMMUNICATIONS TO THE TIMES TO THE NECESSITY OF SIGNING THEIR NAMES TO SUCH COMMUNICATIONS. IT IS THE RULE OF THIS PAPER NOT TO PUBLISH ANY ARTICLE THE NAME OF WHOMSE AUTHOR IS UNKNOWN. REQUESTED CONTRIBUTIONS WILL NOT BE RETURNED UNLESS ACCOMPANIED BY STAMPS.

FRIDAY, MARCH 15, 1901.

HISTORY AND SAMPSON.

Reverend Admiral Sampson, with his aristocratic notions, may study with profit to himself the conduct of the British navy in the seventeenth century by certain English "gentlemen," who were appointed by Charles II. because of their social distinction. Macaulay tells us that in those days "gentlemen" who knew nothing whatever of the methods of naval warfare, nothing even of seafaring, were put in command of British ships of war and incidentally drove splendid money back and forth, as bankers were afraid to entrust their funds to merchant ships, because of the piratical raids of those times. These "gentlemanly" commanders lived in great luxury and abandon in their ships and the King winked at their misdoings. The whole wretched system was a disgrace to the nation, and the crown and the gentry were responsible for it.

"But mingled with these fellows," adds the historian, "were to be found, happily for our country, naval commanders of a very different description, who had worked and fought their way from the lowest offices of the forecastle to rank and distinction. One of the most eminent was Sir Christopher Mings, who entered the service as cabin boy and who fell fighting bravely against the Dutch, and whom his crew, weeping and wailing vengeance, carried to the grave. From him sprang by a singular kind of descent a line of valiant and expert sailors. His cabin boy was Sir John Narborough, and the cabin boy of Sir John was Sir Cloudesley Shovel. To the strong natural sense and dauntless courage of this class of men England owes a debt never to be forgotten. But it does not appear that there was in the service of any of the Stuarts a single naval officer such as, according to the notions of our times, a naval officer ought to be—that is to say, a man versed in the theory and principles of his calling and steered against all the dangers of battle and tempest, yet of cultivated and polished manners. There were gentlemen and there were seamen in the navy of Charles II., but the seamen were not gentlemen, and the gentlemen were not seamen."

It is nothing against a seaman that he is a gentleman by birth and education, nor should it be in the United States, the land of democracy, anything against a seaman that he is not born and bred a gentleman. We believe in college training, we believe in good breeding and good manners and attach all due importance to them. But we believe more than all in true merit and in the merit system. In the army, in the navy and in the civil service of this Government, men should be promoted according as they are entitled by their qualifications for promotion, and if this rule, rather than the rule of political pull, were followed, there would be a much more efficient and honorable service in all departments of government.

Some folks seem to be much disturbed by the statement that Mr. Schwab, president of the United States Steel Corporation, is to receive a salary of a million a year. But why should this disturb the American public? Why should the people fret because one of their number is able to command a salary greater than that of a king? If Mr. Schwab receives a million a year from the steel trust, it will be because his services, in the estimation of the directors, are worth it, and for our part, we are proud that an every-day American can earn such a salary. Would the grumblers put a limit upon a man's earning capacity? Would they put a limit upon the market value of his labor and talent? Away with such an un-American, undemocratic notion.

The New York Journal of Commerce says that "iron and cotton present a marked contrast." Quite so. Iron is "buoyant" and cotton is "heavy."

CURRENT TOPICS.

The President a few days ago informed an aspirant for the office of Pension Commissioner that there was no vacancy and he hoped there would be none. He added, says the *Washington Record*, that General Henry Clay Evans, the present commissioner, had conducted the business of the office in a highly satisfactory manner, dealing fairly with the old soldiers and protecting the interests of the Government at the same time. Evidently it is the President's wish that Commissioner Evans remain in the office he has so ably and honestly filled.

The Washington correspondent of the *Pittsburg Dispatch* writes to his paper that "the vast difference between the real value of land and the figure the Government is asked to pay for it is illustrated by the Mahone lot. Ten or fifteen years ago the Mahone lot was known from one end of the country to the other, because Senator Mahone, the little Virginian, was trying to sell it to the Government for something like \$250,000 as a site for the new Government printing office. Judging from the amount of internal revenue stamps on the deed, the price paid yesterday was something like \$34,000. Fifteen years ago it was worth \$250,000, and possibly not more than \$50,000. Some land bought by the Government this winter for \$1,000 an acre was first offered at \$2,500, and the bid to pay that much came near going through Congress."

Says the *Macon Telegraph*: "We trust that the time is coming when a solid South will no longer be necessary, and when southern interests will be no more distinct from the interests of the country than are western or eastern interests, but nevertheless the prospect of a single section of the South being represented at Washington by its senators instead of by its representatives in the present, is an inspiring and agreeable one."

"Such a prospect is opened by the great and rapid growth of Texas, for, be it remembered, that under the terms of the constitution of Congress admitting Texas into the Union the right to divide that enormous Commonwealth into five States was accorded."

Objection is again raised, says the *Pittsburg Dispatch*, to hanging as an old-fashioned method of inflicting the death penalty. As a matter of fact, it is farther removed from the barbarous burning at the stake than the New York and Ohio plan of scorching criminals by the use of electricity. The most humane means of causing death is by asphyxiation with gases, and that has been advocated in Kentucky. The one thing in favor of hanging is that it is sure. If the drop works right it is quick and painless. As for being up to date, Michigan contends against any form of capital punishment, and points proudly to an actual decrease of crime within its borders as proof that it has grown better since the death penalty was abolished.

PERSONAL AND CRITICAL.

Women lawyers of New York must take off their hats when practicing their profession in the Criminal Court.

The Queen of Holland has named a war vessel after her lover-husband. But, then, the honeymoon is hardly over yet.

The Chicago judge who changed his name from Hennessy to Heney probably concluded that the Windy City was too small for two such illustrious persons of the same name as himself and Mr. Dooley's friend Hennessy.

Robert Burns tells us that
Glory is the soldier's prize
The soldier's wealth is honor,
But George Dewey seems to have
Busted \$5,000 in gold cash beside for sinking
a fleet of old Spanish galleons one morning.

A rumor comes from Arizona, to the Denver Post that the Hon. Joe Mulhatten, the bar-laureate of the world, is dead. If this be true, it would be just like those appreciative Arizonians to carve with their knives upon his headboard something like this:

Here lies what's left of Mr. Joe,
A truly gifted liar,
Who could outlie the liar below
In realms of flame and fire,
He died in life, in death he lies,
And if, his lies forsaken,
He made a landing in the skies,
He plays the lyre in heaven.

A new and bold man of science has appeared in Chicago, says the *New York Sun*. He is John H. Fulton, M. A., described as a former professor of Oriental languages in the Royal University of Athens and the Imperial University of Vienna. Mr. Fulton believes that "the abode of Satan is the planet Saturn, where he is now and has for years been preparing for his final struggle with God and the angels." The struggle is to begin in the latter part of 1901. "Here is nothing like accuracy in these matters. How many a boy in his Latin academy days has been cuffed for calling Saturn Satan! And now it seems that for contention between Jupiter's maps and the old deluder is of the closest."

AFTERMATH.

A protest against the establishment of a horse slaughter-house in New Jersey has brought out the fact that the slaughter of horses for food is expressly permitted by law in the State of New Jersey under certain restrictions.

The row and rumpus and babel of tongues which accompanied the opening of the first Legislature of the Territory of Hawaii indicate that the island solons have at least one advantage over the rest of us. They are at liberty to swear in several languages at once.

Persistence leads to wealth. This is shown by a New York school teacher, who, claiming that she had been unjustly discharged, reported at the school every day for 11 years as a matter of legal form and had just received \$10,000 by a decision of the State Supreme Court.

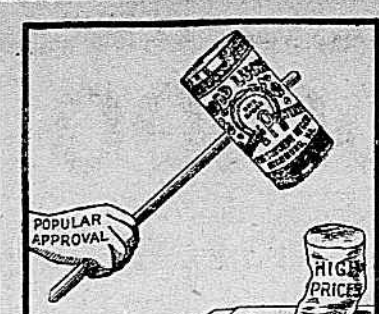
"An Alabama correspondent," says the *Atlanta Constitution*, "writes as follows: 'I send you a poem by my deceased grandfather. He wrote over a thousand poems and never published one.'"

"If that man hasn't got a monument over him the State should give him one without delay."

"A company playing one of Lloyd's farces in Kansas," says the *Kansas City Journal*, "has an advertising hanger which reads: 'Everybody goes to a 'Hole in the Ground.'" One of these hangers appeared in the window of the most solemn and distinguished undertaking shop in Emporia the other day, and gave the town a fit."

A Georgia social event is heralded by the *Whittier Courier* in this wise:

A silver wedding will be given at Moss Hill on the 21st of Tuesday, no rain prevent. It will be the Best of the Season ever give in this place. Six possums



Weiled by the strong hand of Popular Approval, the "GOOD LUCK" BAKING POWDER sledge has hammered competition in the South and South-West to such a small point that of the immense amount of Baking Powder used "GOOD LUCK" supplies more than half of the entire consumption.

THE SOUTHERN MANUFACTURING CO., RICHMOND, VA.

will be served Hot, an maybe a Turkey. Also Pies, Come One, Come All to Moss Hill—both the Grate and the small. Gentlemen, 25 Ladies, 15 children, 10. Order will prevail. All will be Pleasant.

From the London Chronicle we learn that "the State of Kansas has for long years been nominally a prohibition State. Spirits are allowed to be sold only as 'medicine,' and that is how the following story came to be told: A bronzed and stalwart cowboy planted a 'two-gallon demijohn' on the counter of a chemist's shop. 'Fill her up,' he said, 'baby's sick.'"

Approved of Mercy.

Editor of The Times:
Sir,—In your paper of to-day, page 2, column 3, middle, occurred an Associated Press telegram which does great injustice to the State of New York and Ohio plan of scorching criminals by the use of electricity. The most humane means of causing death is by asphyxiation with gases, and that has been advocated in Kentucky. The one thing in favor of hanging is that it is sure. If the drop works right it is quick and painless. As for being up to date, Michigan contends against any form of capital punishment, and points proudly to an actual decrease of crime within its borders as proof that it has grown better since the death penalty was abolished.

P. H. BASKERVILL.

Richmond, Va., March 13.

CUT HIS JUGULAR VEIN.

Harrison R. Lupton Paralyzed—Turtle Back Engines on a Valley Railroad.

(Special Dispatch to The Times.)
WINCHESTER, VA., March 14.—During a quarrel at Harper's Ferry, West Virginia, late this afternoon Thomas Rodrick cut his jugular vein. The victim, it is said that a razor was used. Rodrick's victim died to death in less than five minutes after being cut. Rodrick was arrested and taken to Charlottesville, Va., where he is now being held in the first train and lodged in jail. It is not known how the quarrel originated.

Harrison R. Lupton, a prominent retired glove manufacturer, suffered a severe stroke of paralysis to-day, and lies in a critical condition.

The Baltimore and Ohio Railroad to-day began operating "turtle-back" engines on passenger trains on the Valley Division and the Richmond and Petersburg Junction and Harper's Ferry, a distance of fifty miles, will be made in about one hour.

The Rousey City Hall was brilliantly illuminated for the first time last night. Everything is in readiness for the public opening next week.

GOVERNOR IN LANCASTER.

He and Mrs. Tyler Attended—The Governor Made a Speech.

(Special Dispatch to The Times.)
WASHINGTON, VA., March 14.—Farmers' institute was held at Kilmarnock, Lancaster county, to-day with the following speakers in attendance: Hon. G. W. Kolner, Commissioner of Agriculture; P. S. Barber, of Harrisburg, Penn., and J. H. C. Beverly, member of the State Board of Agriculture.

The Governor, Mr. Tyler, accompanied by his wife, was in attendance. About four hundred persons were present and great interest and benefit was derived from the meeting.

The Governor met with a very enthusiastic reception, and made a catchy speech. The people are delighted and very enthusiastic. Governor Tyler is the first Governor who has been in Lancaster since King Carter.

The case of Coleman against Sanders will be heard at Lancaster to-morrow. The Circuit Court has disposed of much business.

Ball at the Episcopal High School.

(Special Dispatch to The Times.)
ALEXANDRIA, VA., March 14.—The opening baseball game of the Episcopal High School will be played with the Western High School team, of Washington, at the Episcopal High School, Saturday, the 23d.

The following is the schedule arranged for the remainder of the season: University of Virginia, at Charlottesville, March 28; Gettysburg College, April 4; St. John's College, April 6; Fredericksburg College, at Fredericksburg, April 8; Gallaudet College, April 10; Fredericksburg College, April 13; Roanoke College, April 20; Druid Athletic Club, of Baltimore, April 27; University of Maryland, April 28; Pastime Athletic Club, May 4; Emerson Institute, May 11; Eastern High School, of Washington, May 18; Richmond College, May 18; Mount St. Joseph College, of Maryland, May 30. All games except those otherwise stated will be played at the High School grounds. W. H. Randolph is the manager of the team this year, and Yarbrough, catcher of the team, is captain.

Shot and Killed.

(Special Dispatch to The Times.)
BRISTOL, TENN., March 14.—Samuel Maness, aged 25, was shot and killed near Fairview, Scott county, Va., last night by E. Garland. Maness was out with a hunting party. For some cause Garland fired upon the party as they were passing by his home.

A Bad Cut.

(Special Dispatch to The Times.)
ROCKVILLE, Md., March 14.—William Taylor, a popular young farmer near this place, while cutting in a new ground last Tuesday, struck a limb which caused his axe to glance and cut his left foot almost half off. Dr. Wm. Meredith sewed up the wound.

NEWPORT NEWS CASE DECIDED.

Corporation C. not Forbidden to Interfere With Police Board.
JUDGE WHITTLE'S FIRST OPINION.

Handed Down in an Interesting Case in Which the Appellate Court Reverses Its Ruling—A Large Number of Decisions.

The Supreme Court of Appeals of Virginia made a record yesterday in the large number of cases decided.

One of the most interesting opinions handed down from the laymen's standpoint was that in *Johnson et al. vs. Durham*, Judge Keith, P., in a petition for a writ of prohibition to the Corporation Court of Newport News, which grew out of the much discussed wrangle between the Board of Police Commissioners and former Chief of Police S. J. Harwood.

This case of *Parsons vs. Newman* and *Glenn vs. Brown et al.*, appealed from the Circuit Court of Henrico County and affirmed, involve some interesting points relating to the law governing the recovery of land bought by the State for delinquent taxes.

In *Richmond Ice Company vs. Crystal Ice Company*, appealed from the Law and Equity Court of Richmond city and affirmed, the opinion clearly conveys the contract between said companies.

The important question of the right to subrogation as between partners was ably discussed in the opinion delivered by Judge Whittle in the case of *Sands vs. Durham*, appealed from the Circuit Court of Henrico County and affirmed.

In *Schrieber, Sons & Company vs. the Citizens' Bank of Norfolk*, appealed from the Law and Chancery Court of Norfolk and affirmed, the opinion holds the rights and remedies of sub-contractors.

There are other decisions which follow under the various sub-heads, in which much matter of interest to the bar and the public may be found.

The Newport News Police Fight.

Johnson et al. vs. Durham, Judge, &c. Upon a petition for a writ of prohibition to the Corporation Court of Newport News, Opinion by Judge Keith, P. This case grew out of the controversy over the removal of Harwood and the appointment of Harwood as Chief of Police. The published act of the Legislature, chartering the city of Newport News, provides for the right of appeal from the decision of the Board of Police Commissioners to the Corporation Court. A decree was entered in the Circuit Court, from which this appeal was taken.

As to the right to supply this word "court" to the court of appeals held that no jurisdiction has been conferred upon the Corporation Court to entertain an appeal from the order of the Board of Police Commissioners removing S. J. Harwood as Chief of Police.

In the Chancery Court proceedings there was a demurrer to the bill by which jurisdiction of that court was challenged. Without deciding how far a court of chancery would have been justified in interfering to protect such a trust, the court decided that the right of appeal from the decision of the Board of Police Commissioners to the Corporation Court was not a trust.

It is clear that the Chancery Court has no jurisdiction to entertain an appeal from the order of the Board of Police Commissioners removing S. J. Harwood as Chief of Police. The court decided that the right of appeal from the decision of the Board of Police Commissioners to the Corporation Court was not a trust.

A writ of prohibition is, therefore, issued to the Circuit Court of Newport News, sitting as a court of chancery, forbidding it to take jurisdiction in the case therein pending, of Harwood vs. Johnson, and the petitioners are to recover their costs in this behalf expended.

As to Recovery of Lands.

Parsons & Co. vs. Newman & Co. From Circuit Court of Henrico County. Opinion by Judge Keith, P.

This is a case involving the recovery of lands in Henrico County which had been sold for taxes as provided by Sec. 656, Code of 1857. The parties admit by their pleadings that all title to the lands, both legal and equitable, is in the Commonwealth of Virginia, and that the right of redemption, except the right of redemption, it was held that before they can carry into a court of equity under the allegations of the bill as amended to have a cloud upon the title to the land removed, they or someone in their interest, must have exercised the right of redemption, for until that shall have been done they have no interest in the land and no right to subject it to their debts.

Decree dismissing the bill and amended bill and the petition and amended petition, is affirmed, without prejudice.

Delinquent Lands.

Glenn vs. Brown et al. From Circuit Court of Henrico County. Opinion by Judge Keith, P.

The defendant filed their bill in the trial court alleging that they were the owners of certain lands in Henrico County, which formerly belonged to Ann G. Kemp, and which had been returned delinquent in the year 1838. In February, 1856, the property was purchased by the Commonwealth at public sale, and in July, 1858, one Mandabala filed an application, paid the taxes, etc., and obtained a deed from the clerk of said county on March 15, 1858.

Joseph E. Glenn, who purchased from Mandabala, filed a demurrer and answer to the bill, and after agreeing upon certain facts, the cause was submitted, and a decree was entered, which, among other things, permitted the filing of an amended bill making issuable certain matters therein mentioned, which had not been before presented by the plaintiff. The Court of Appeals held that the amendment permitted caused no delay and was, therefore, properly granted, and that the decree setting aside the deed from the clerk to Mandabala was correct, and that the defendant did not have the right to redeem the land, the payment of any taxes, etc., by him did not redound to his benefit, but only to that of the party whose right it was to redeem. (See *Parsons vs. Newman*, just decided.)

Construction of Contract.

Richmond Ice Company vs. Crystal Ice Company. From Law and Equity Court of Richmond city. Opinion by Judge Keith, P.

On December 1, 1898, an agreement was entered into between the plaintiff and defendant companies by which the latter was to furnish the former so many pounds of ice a year for a period of four years. The defendant insisted that under the agreement it was only bound to furnish ice to the Mutual Ice Delivery Company, and that during the period

when it failed to furnish the plaintiff's quota of ice, its surplus product was not sufficient to furnish more ice than it did furnish without interfering with its own contract with the Mutual Ice Delivery Company, and asked the court to so instruct the jury, which was done, and this is the first assignment of error.

The Court of Appeals held that it was error to so instruct the jury, as the defendant was not relieved from the duty to exercise ordinary diligence in manufacturing the ice it had undertaken to furnish, and was only protected from liability in the event it was unable to furnish it without default on its part. It was also held that in so far as the defendant was unable to furnish the ice from day to day and failed to furnish it or cause it to be furnished, it is not entitled to pay by way of offset therefor, and the jury should have been so instructed.

Judgment reversed, verdict set aside.

Subrogation Between Partners.

Sands vs. Durham. From Circuit Court of Giles County. Opinion by Judge Whittle.

An opinion was delivered in this case June 19, 1900, (2 Va., Sup. Ct. R., p. 381) but the court not being satisfied with the contract then decided, rehearing was granted. There is but one question presented, viz: "Where a partnership has been dissolved and the social assets exhausted, and judgments subsequently recovered against the members of the partnership have been paid by one of the partners, who is not in arrears to the firm, out of his individual means, and this is shown by a settlement of the partnership accounts, is the partner who has paid the judgments entitled to be subrogated to the rights of the firm against the real estate of his copartner, in the hands of a subsequent purchaser, to the extent to which his payments exceed his proportional part of the liability?"

After a thorough review of the decisions upon this question, the court held that the Circuit Court in decreeing that appellee was entitled to be subrogated to the rights of the judgment creditor, whose liens he had discharged, and in subjecting the real estate owned by his copartner, to the claims of the judgment creditor, was in error. The court reversed the judgment, and decreed that the plaintiff was to recover the amount of his payments in excess of his proportional part of the liability.

Claims of Sub-Contractors.

Schrieber, Sons & Co. vs. The Citizens' Bank of Norfolk &c. From the Law and Chancery Court of Norfolk. Opinion by Judge Harrison.

The appellants, who are among the sub-contractors of E. M. Hughes, the general contractor, seek to hold the bank liable for their services in completing the building of the bank. Under an agreement with the general contractor the bank was to hold 50 per cent. of the cost of the building until the work was completed. The bank was referred to a commissioner, who reported that there was in the hands of the bank, unpaid on the building, a balance of \$4,444.86, and that after the completion of the building as ordered, the bank had in hand, applicable to unpaid claims, \$3,833.27, out of which had to be first paid two claims of \$1,853.03 of superior dignity, and the residue disbursed pro rata among the remaining claimants.

The court held that the bank was not liable for the unpaid balance, and that the appellants were to recover the amount of their claims against the bank, and that the bank was to pay the amount of the unpaid balance.

It was held on review that the payments made by the bank and which were complained of, were in all cases correct, and that the appellants had not perfected their claims as contemplated by section 247, Code, and that as it did not perfect its lien in time it could not (by section 217) exceed the amount in which the owner was then indebted to the general contractor, and the appellants were to share pro rata with the unpaid balance.

Judgment affirmed.

Question of Bad Faith.

Virginia-Carolina Chemical Company vs. Carpenter and Company. From the Law and Chancery Court of Norfolk. Opinion by Judge Harrison.

This case was before this court upon a writ of error awarded the plaintiff in the court below, and an opinion handed down March 13th, 1900 (2 Va. Sup. Ct. R. 149198). The action was to recover damages for the refusal of the Virginia-Carolina Chemical Company to take from Carpenter and Company certain Tennessee phosphate rock alleged to have been sold the defendant, which it refused to accept. The defense was that the rock was not of the quality contracted for, and was not to be shipped to experiment with, and that the defendant was to take the remainder if the sample of 100 tons proved satisfactory in quality and condition. The defendants declined to accept the rock upon the ground that it was not satisfactory.

The gist of the former decision was that it was for the jury to say, upon proper instructions, whether or not the defendant acted in good or bad faith in declining to take the rock upon the ground that it was not satisfactory.

It appears from the record now before the court that the case was taken to the jury upon proper instructions, and the sole question to be determined is whether or not the evidence is sufficient to sustain the verdict in favor of the plaintiff, which it necessarily is upon the conclusion that the defendant was guilty of bad faith in declining to take the rock.

The Court of Appeals held that the charge of bad faith was not made out with the clearness and distinction required in such cases. Judgment reversed, verdict set aside and case remanded.

On Pleadings.

Briggs vs. Cook. From Law and Chancery Court of Norfolk city. Opinion by Judge Keith, P.

W. C. Cook filed notice of motion for judgment in trial court against G. S. Briggs for a sum he claimed to be due upon a contract.

The defendant pleaded non assumpsit, and also filed a special plea claiming that plaintiff owed him a certain sum by way of set off, for which sum he prays judgment against plaintiff in excess of his demand. To this special plea there was no replication, and thereupon cause was set for trial, which was held on the 14th of the month. The defendant moved the court to set aside this verdict and grant him a new trial because no replication had been filed to his special plea of set off and no issue joined thereon; that judgment be entered on his plea of set off, and that after judgment on all of which motions the court overruled.

These rulings are assigned as error. The Court of Appeals held that by the failure of defendant to ask for a rule to cause plaintiff to fill replication, he had waived his right to objection on that ground, and that after judgment on all of which motions the court overruled.

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Avoidance of Deed.

Breesee vs. Bradford, et al. From the Circuit Court of Loudoun County. Opinion by Judge Keith, P.

The defendant in this case had secured judgment against M. B. Nolle and H. B. Nolle, her husband, who were prior owners on some notes with him, which he had to pay. Breesee was father of Mrs. Nolle, and trustee of some property in which she had a life estate. She had sold her life estate to Breesee subsequent to the debts, and Breesee was seeking to enforce his judgment, and sought to set aside the deed of Breesee from Mrs. Nolle as void. The case was referred to a commissioner who ascertained by an average of the estimates of the various witnesses what was the value of the life estate of Mrs. Nolle, the yearly income therefrom, and its value as an annuity, which report of the commissioner was confirmed by the court.

The first assignment of error is that the court erred in referring the cause to a commissioner to take evidence and report upon the bill and answer, and that the plaintiff being that if the complainant chose to submit the cause upon the bill

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